

*Ellis*  
*Yine*

December 24, 1953  
Letter Opinion  
No. 53-173-L

The Honorable Barry DeRose  
Gila County Attorney  
Gila County Court House  
Globe, Arizona

**LAW LIBRARY**  
**ARIZONA ATTORNEY GENERAL**

Dear Mr. DeRose:

In answer to your letter dated December 15, 1953, please be advised it is the opinion of the Attorney General that:

1. Pursuant to Section 17-506, A.C.A. 1939, a county attorney has the authority to hire special investigators in order to properly discharge the duties of his office. However, the investigator may not receive any compensation that is not authorized by law. Section 17-308, A.C.A. 1939, places the responsibility of examining, settling and allowing all accounts legally chargeable against the county upon the board of supervisors. In addition, they are charged with the responsibility of supervising the official conduct of all county officers. To be authorized by law, there must be an appropriation and the expenditure must be approved by the county board of supervisors pursuant to Section 17-1201, A.C.A. 1939.

2. Article 9, Chapter 43, A.C.A. 1939, pertaining to the powers and duties of the county attorney, does not authorize the county attorney to make arrests in the sense that he is a peace officer. It would seem to follow that under the rules set forth in Section 12-202, A.C.A. 1939, which limits the powers of a deputy to that of the officer under whom he is employed, an employee serving as a special investigator would not have the power to make an arrest other than as a private citizen. The proper manner to handle this situation would be to have a deputy sheriff assigned to the county attorney's office as a special investigator.

3. Section 17-506, supra, gives the county attorney the power to appoint his own deputies and employees and makes no mention of requiring the approval of the board of supervisors as such. The appointment is up to the county attorney, and the validity of the expenditure and the appropriation therefor is up to the county board of supervisors.

53-173-L

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Page Two

4. The recent amendment to Article 4, Part 2, Section 17 of the Arizona Constitution excepts only justices of the peace from the general rule and makes no mention of the constables. Under no interpretation could it be said that the salary of a constable can be changed in the middle of his term.

Your question concerning the power of a constable to appoint an assistant is adequately answered in the enclosed Opinion No. 53-194.

Yours very truly,

PAUL W. LAPRADE  
Assistant to the  
Attorney General

PWL:LE  
Enclosed